

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LYNNE THOMPSON,)
Plaintiff,)
vs.) Civil Action No. 12-1188
RANDAL B. TODD, Individually;)
ALLEGHENY COUNTY EXECUTIVE;) Judge Arthur J. Schwab/
COURT OF COMMON PLEAS) Magistrate Judge Maureen P. Kelly
ADMINISTRATOR OF THE COURTS;)
PRESIDENT JUDGE OF COURT(S) OF)
COMMON PLEAS,) Re: ECF No. 2
Defendants.)

ORDER

Lynne Thompson, (“Plaintiff”) is a prisoner who is a frequent litigator in the federal courts. She previously filed several lawsuits, which were dismissed as frivolous or for failure to state a claim upon which relief can be granted. As a consequence, she has acquired “three strikes,” in contravention of 28 U.S.C. § 1915(g), and cannot proceed *in forma pauperis* (“IFP”) in the present case. Hence, a Report and Recommendation, ECF No. 3, was recently issued in this case, recommending denial of Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* (“IFP Motion”).

Plaintiff also filed a “Motion to Hold Case(s) In Abeyance” (the “Motion”). ECF No. 2. In the Motion, she asks this Court to hold the case in abeyance “for at least six month[s] or more” because she suspects that she will be released from prison shortly ECF No. 2 at 2, ¶ 2.A. She explains that if her Motion were granted, she would “be able to fight these defendants properly.” Id. at ¶ 2.B. She contends that she is currently imprisoned in the State Correctional Institute at Cambridge Springs and alleges further that “[t]here is a real possibility that Lynne

Thompson may be out on Bond" which will "greatly allow her for having the luxury to fight this case in Pittsburgh." Id., at 3, ¶ 3.

In the Complaint, although Plaintiff named four entities as defendants, she only made factual allegations against Judge Randall Todd of the Allegheny County Court of Common Pleas who presided over Plaintiff's criminal proceedings that resulted in her guilty plea. Judge Todd also presided over Plaintiff's Post Conviction Relief Act Proceedings.

Plaintiff's Complaint centers around the alleged actions or inactions of Judge Todd in the course of Plaintiff's criminal and post-conviction proceedings before him. Plaintiff alleges that Judge Todd violated her rights because he never ruled on any motions, apparently filed pro se by Plaintiff, notwithstanding that she had an attorney appointed for her. However, she further complains that Judge Todd was well aware that she was dissatisfied with the appointed attorney. ECF No. 1-1 at 3, ¶ IV.C.

Even if Plaintiff were able to pay the entire filing fee, as she would be required to do, if the Report is adopted, and if the Complaint was formally filed, the Complaint would be subject to screening under the Prison Litigation Reform Act and, likely, dismissible based on various doctrines including, absolute judicial immunity, and Heck v. Humphrey, 512 U.S. 477 (1994). In this Court's estimation it would be futile to delay the inevitable. Hence, the Motion should be denied as futile. See, e.g., Thompson v. Baldwin, No. 9:09-CV-685, 2012 WL 1033674 (N.D.N.Y., March 27, 2012) (denying stay as futile). Furthermore, Plaintiff's stated reason of needing to be in Pittsburgh in order to litigate this case does not convince the Court of the necessity of a stay. Prisoners incarcerated all over the state litigate cases in this Court without difficulty. In view of the foregoing, Plaintiff's Motion is **DENIED**.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

/s/Maureen P. Kelly
MAUREEN P. KELLY
U.S. MAGISTRATE JUDGE

Date: November 27, 2012

cc: The Honorable Arthur J. Schwab
United States District Judge

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